



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[A-570-806]

Silicon Metal from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*.]

SUMMARY: The Department of Commerce ("Department") is conducting an administrative review of the antidumping duty order on silicon metal from the People's Republic of China ("PRC") for the period of review ("POR") June 1, 2011, through May 31, 2012. This review covers one PRC company, Shanghai Jinneng International Trade Co., Ltd. ("Shanghai Jinneng").¹ The Department preliminarily finds that Shanghai Jinneng did not have reviewable transactions during the POR. We intend to issue the final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the "Act").

FOR FURTHER INFORMATION CONTACT: Lori Apodaca, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4551.

¹ See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 77 FR 45338 (July 31, 2012) ("Initiation Notice").

SUPPLEMENTARY INFORMATION:

Background

On June 1, 2012, the Department published a notice of an opportunity to request an administrative review of the antidumping duty order on silicon metal from the PRC.² On June 29, 2012, Globe Metallurgical Inc. (“Petitioner”) requested a review of Shanghai Jinneng.³ On July 31, 2012, the Department initiated the review of Shanghai Jinneng.⁴ Shanghai Jinneng certified that the company had no shipments of subject merchandise to the United States during the POR on August 9, 2012.⁵ On October 18, 2012, the Department notified U.S. Customs and Border Protection (“CBP”) of the company claiming no shipments and requested that if CBP has information contradicting the claim, it provide such information.⁶ On November 9, 2012, the Department notified parties that the results of the CBP query indicated that Shanghai Jinneng had not shipped subject merchandise during the POR.⁷

As explained in the memorandum from the Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 29 through October 30, 2012.⁸ Thus, all deadlines in this segment of the proceeding have been extended by two days. The revised deadline for the preliminary results of this review is now March 4, 2013.

² See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 77 FR 32528 (June 1, 2012).

³ See Letter from Petitioner to the Department of Commerce, Re: Request for Administrative Review, dated June 29, 2012.

⁴ See Initiation Notice.

⁵ See Letter from Shanghai Jinneng to the Department of Commerce, Re: No Sales Certification, dated August 9, 2012.

⁶ See Instructions from the Department to CBP, Re: No Shipments Inquiry for Silicon Metal from the People’s Republic of China Exported by Shanghai Jinneng International Trade Co., Ltd. (A-570-806), Message number 2292301, dated October 18, 2012 (“CBP Inquiry”).

⁷ See Memorandum to the File, Re: Antidumping Duty Administrative Review of Silicon Metal from the People’s Republic of China, dated November 9, 2012 (“CBP Query”).

⁸ See Memorandum to the Record from Paul Piquado, AS for Import Administration, regarding “Tolling of Administrative Deadlines As a Result of the Government Closure During Hurricane,” dated October 31, 2012.

Scope of the Order

Imports covered by the order are shipments of silicon metal containing at least 96.00 but less than 99.99 percent of silicon by weight. Also covered by the order is silicon metal from the PRC containing between 89.00 and 96.00 percent silicon by weight but which contain a higher aluminum content than the silicon metal containing at least 96.00 percent but less than 99.99 percent silicon by weight. Silicon metal is currently provided for under subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule of the United States (“HTSUS”) as a chemical product, but is commonly referred to as a metal. Semiconductor-grade silicon (silicon metal containing by weight not less than 99.99 percent of silicon and provided for in subheading 2804.61.00 of the HTSUS) is not subject to the order. Although the HTSUS subheadings are provided for convenience and for customs purposes, the written description of the merchandise is dispositive.

Preliminary Determination of No Shipments

As noted in the “Background” section above, Shanghai Jinneng has submitted a timely-filed certification indicating that it had no shipments of subject merchandise to the United States during the POR. In addition, in response to our no-shipments inquiry, CBP did not provide any evidence contradicting Shanghai Jinneng’s claim of no shipments. Further, on November 9, 2012, the Department released to interested parties the results of the CBP query that it used for corroboration of Shanghai Jinneng’s no-shipments claim.⁹ The Department received no comments from any interested parties concerning the results of the CBP query.

Based on the certification of Shanghai Jinneng and our analysis of CBP information, we preliminarily determine that Shanghai Jinneng did not have any reviewable transactions during the POR. In addition, consistent with the Department’s recently announced refinement to its

⁹ See CBP Query.

assessment practice in non-market economy (“NME”) cases, the Department finds that it is appropriate not to rescind the review in these circumstances but rather, to complete the review with respect to Shanghai Jinneng and issue appropriate instructions to CBP based on the final results of the review.¹⁰

Comments

Interested parties are invited to comment on the preliminary results and may submit case briefs and/or written comments within 30 days of the date of publication of this notice, pursuant to 19 CFR 351.309(c)(1)(ii). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days after the due date for case briefs, pursuant to 19 CFR 351.309(d). Written argument should be filed electronically using Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”).¹¹ Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument a statement of the issue, a summary of the argument not to exceed five pages, and a table of statutes, regulations, and cases cited, in accordance with 19 CFR 351.309(c)(2).

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce. The request must be filed electronically using IA ACCESS. An electronically filed document must be received successfully in its entirety by the Department’s electronic records system, IA ACCESS, by 5:00 p.m. Eastern Standard Time, within 30 days after the date of publication of this notice.¹²

Requests should contain: (1) the party’s name, address and telephone number; (2) the number

¹⁰ See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694 (Oct. 24, 2011) and the “Assessment Rates” section, below.

¹¹ See, generally, 19 CFR 351.303

¹² See 19 CFR 351.310(c).

of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs.

The Department intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP within 15 days after the publication date of the final results of this review. Pursuant to the recently announced refinement to its assessment practice in NME cases, if the Department continues to determine that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (i.e., at that exporter's rate) will be liquidated at the PRC-wide rate. For a full discussion of this practice, see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694 (October 24, 2011).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for Shanghai Jinneng, which claimed no shipments, the cash deposit rate will remain unchanged from the rate assigned to the company in the most recently completed review of the company; (2) for previously investigated or reviewed PRC and non-PRC exporters who are not under review in this segment of the proceeding but who have

separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate the cash deposit rate will be the PRC-wide rate of 139.49 percent;¹³ and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Paul Piquado
Assistant Secretary
for Import Administration

February 20, 2013
Date

¹³ For an explanation of the calculation of the PRC-wide rate, see Final Determination of Sales at Less Than Fair Value: Silicon Metal from the People's Republic of China, 56 FR 18570, 18571-2 (April 23, 1991).

